

1 AN ACT in relation to public works projects.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Second Lowest Bidders' Protection Act.

6 Section 5. Cause of action.

7 (a) The second lowest bidder on a public works project,
8 and any person, firm, association, trust, partnership, labor
9 organization, corporation, or other legal entity that has,
10 before the letting of the bids on the public works project,
11 entered into a contract with the second lowest bidder, who
12 suffers damage as a proximate result of a competitive bid for
13 a public works projects not being accepted by a public body
14 due to the successful bidder's knowing violation, as
15 evidenced by an adjudication in a judicial or administrative
16 proceeding of the successful bidder for having violated any
17 of the provisions of the Workers' Compensation Act, Workers'
18 Occupational Diseases Act, Unemployment Insurance Act, or
19 Prevailing Wage Act, may bring an action for damages against
20 the person or legal entity that violated that Act.

21 (b) There is a rebuttable presumption that a successful
22 bidder who has been adjudicated in a judicial or
23 administrative proceeding of violating the Workers'
24 Compensation Act, Workers' Occupational Diseases Act,
25 Unemployment Insurance Act, or Prevailing Wage Act was
26 awarded the bid because the successful bidder was able to
27 lower the bid due to a violation of that Act occurring with
28 respect to the contract for public works awarded by the
29 public body.

30 Section 10. Definitions. As used in this Act:

1 "Public works" means all fixed works constructed for
2 public use by any public body, other than work done directly
3 by any public utility company, whether or not done under
4 public supervision or direction, or paid for wholly or in
5 part out of public funds. "Public works" includes all
6 projects financed in whole or in part with bonds issued under
7 the Industrial Project Revenue Bond Act (Article 11, Division
8 74 of the Illinois Municipal Code), the Industrial Building
9 Revenue Bond Act, the Illinois Development Finance Authority
10 Act, or the Build Illinois Bond Act, and all projects
11 financed in whole or in part with loans or other funds made
12 available under the Build Illinois Act.

13 "Construction" means all work on public works involving
14 laborers, workers, or mechanics.

15 "Public body" means the State or any officer, board, or
16 commission of the State or any political subdivision or
17 department of the State, any institution supported in whole
18 or in part by public funds that is authorized by law to
19 construct public works or to enter into any contract for the
20 construction of public works, and every county, municipality,
21 township, school district, special district, and every other
22 political subdivision, district, or municipality of the State
23 whether the political subdivision, municipality, or district
24 operates under a special charter or not.

25 "Second lowest bidder" means the second lowest qualified
26 bidder deemed responsive by the public body awarding the
27 contract for public works.

28 The "second lowest bidder" and the "successful bidder"
29 may include any person, firm, association, corporation, or
30 other legal entity.

31 Section 15. Costs and attorney's fees. In any action
32 brought under this Act, the court may award costs and
33 reasonable attorney's fees, in an amount to be determined in

1 the court's discretion, to the prevailing party.

2 Section 20. Exemption. A second lowest bidder who has
3 been adjudicated in a judicial or administrative proceeding
4 of violating the Workers' Compensation Act, Workers'
5 Occupational Diseases Act, Unemployment Insurance Act, or
6 Prevailing Wage Act within one year before filing the bid for
7 public works, and who has failed to take affirmative steps to
8 correct that violation, shall not have a cause of action
9 under this Act.

10 Section 25. Rights not diminished. This Act shall not
11 be construed to diminish any other rights provided by law.

12 Section 30. Actions against State and local government
13 prohibited. There is no cause of action against the State,
14 any unit of local government, or any school district under
15 this Act.

16 Section 35. Limitation of cause of action. A cause of
17 action for damages under this Act is barred unless commenced
18 within one year after the completion of the construction on
19 the public works project by the successful bidder who has
20 been adjudicated in a judicial or administrative proceeding
21 to have violated one of the Acts specified in Section 5.